IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

TUESDAY, THE 20TH FEBRUARY 2007 / 1ST PHALGUNA 1928

WP(C).No. 5528 of 2007(G)

PETITIONER:

G. BALAKRISHNAN NAIR,
PARVATHI MANDIRAM, TC.22/804, ATTUKAL,MANACAUD,
THIRUVANANTHAPURAM-605 009. (DIVISIONAL ACCOUNTANT
DRAINAGE PROJECT DIVISION NO.II, KERALA WATER
AUTHORITY, THIRUVANANTHAPURAM - RETIRED).

BY ADV. SRI.B.RAGUNATHAN
SRI.V.V.MATHEW
SRI.G.S.MOHANDAS

RESPONDENTS:
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1. STATE OF KERALA,
REPRESENTED BY PRINCIPAL SECRETARY TO GOVERNMENT,
IRRIGATION AND WATER RESOURCES DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001

2. KERALA WATER AUTHORITY,
REPRESENTED BY MANAGING DIRECTOR, JALABHAVAN,
WATER WORKS CAMPUS, THIRUVANANTHAPURAM-695 033.

R1 BY GOVT. PLEADER SHRI. BIJOY CHANDRAN
R2 BY SC ADV SHRI. C. UNNIKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K. DENESAN, J.

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W.P.(C) No. 5528 OF 2007 G
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Dated this the 20th February, 2007

J U D G M E N T

The reliefs prayed for by the petitioner reads as follows:

> "i) issue a writ of mandamus or other appropriate writ, direction or order to the 2nd respondent to consider and pass orders on Ext. P5 by promoting the petitioner to the posts of Senior Superintendent, Accounts Officers Gr. II and Gr. I and Internal Auditor, on the basis of petitioner's seniority and rank in the post of Junior Superintendent in the erstwhile Public Health Engineering Department with retrospective effect and with all attendant benefits.
>
> ii) grant such other orders which this Hon'ble Court may deem fit and proper in the circumstances of the case. And
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> iii) award the cost, of this petition to the petitioner."

2. Evidently, the petitioner wants the 2nd respondent to consider and pass orders on Ext. P5 by promoting him to the post of Senior Superintendent, Accounts Officers Gr. II and Gr. I and Internal Auditor, on the basis of the petitioner's seniority and rank in the post of Junior Superintendent in the erstwhile Public Health Engineering Department with

retrospective effect and with all attendant benefits. The petitioner retired from service on 30-4-1988. Ext. P5 representation has been filed after 18 years since the date of his retirement. He wants retrospective promotions to be granted to him which spread over to a period prior to 1984 and includes service rendered by him in the erstwhile Public Health Engineering Department as well. The petitioner has stated why he could not file a representation prior to Ext. P5.

3. I am not convinced that the reasons stated by the petitioner are reasonable or genuine or acceptable. It is seen that the provocation for the petitioner to file Ext. P5 is the judgment of the Division Bench rendered on 2-`12-2005 in W.A. No. 1065 of 1999. In fact, the petitioner has raised contentions based on Ext. P3 judgment of the Division Bench. I am not impressed by the argument that the petitioner being a similarly situated person is entitled for the benefit of the directions issued as per Ext. P3 judgment, and therefore, the Water Authority is bound to consider the belated representation filed by the petitioner as per Ext. P5. The Division Bench despite the strong

resistance put up by the Water Authority, granted reliefs to the respondents in the writ appeal on the ground that the respondents therein belong to a vanishing category and that some reliefs can be granted to them. While directing the Water Authority to consider the case of the respondents in Ext. P3 judgment, the Division Bench made it clear that that judgment shall not be treated as a precedent and it has to be confined to the respondents therein only. It was so said, in the peculiar facts and circumstances of that case. That being the position any direction to the Water Authority to extend the benefit of Ext. P3 judgment to the petitioner as requested in Ext. P5 representation belatedly filed by him, would go against the rider incorporated in Ext. P3 judgment. I am, therefore, of the view, that this writ petition is liable to be dismissed in limine. I do so.

K.K. DENESAN
JUDGE

jan/